

Waivers	First Name	Last Name	Claim Number
			W-17-0012
Amount	OGC Received Date	Assigned To	Assigned Date
\$2649.60	06/15/2017	John Rowland	06/15/2017
EPA Decision	EPA Decision Date	Amount Approved	Status
DENIED	09/15/2017	CLOSED	
Appeal	Comments		
No			
Type			
Temporary Promotion			

Attachments

From: Stewart, Leonice
Sent: Thursday, June 15, 2017 7:30 AM
To: Redden, Kenneth <Redden.Kenneth@epa.gov>
Cc: Gray, Richard <Gray.Richard@epa.gov>
Subject: Waiver Request - [REDACTED]

Good morning. The following person has requested a waiver for an in-service debt. Please see attachment for supporting documents. Once this case has been assigned, please contact us if more information is needed from our office in making your decision with the waiver request.

Name	SSN	Bill Number	Amount
[REDACTED]	[REDACTED]	62990257778	\$2,044.88

Supporting Documents include:
DD Form 2789 & supporting documents
Debt letter
Computation documents from IBC
Emails to employee

INCLUDEPICTURE "cid:image001.jpg@01D2E5A9.092CA440" * MERGEFORMATINET

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Information contained in this message may be subject to the Privacy Act (5 USC 522a) and should be treated accordingly

Leonice Stewart, Accountant
OC/FSD/WFC
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From: Redden, Kenneth
Sent: Friday, September 15, 2017 10:05 AM
To: [REDACTED]
Cc: Rowland, John <Rowland.John@epa.gov>; Stewart, Leonice <Stewart.Leonice@epa.gov>; Gray, Richard <Gray.Richard@epa.gov>
Subject: Re: Waiver Request - Bill #62990257778

Ok. Have a great weekend!

On Sep 15, 2017, at 8:28 AM, [REDACTED] wrote:
Thank you.
I'll be filing an EEO complaint against you and all involved by the middle of next week.

From: Redden, Kenneth
Sent: Friday, September 15, 2017 5:26 AM
To: [REDACTED]
Cc: Rowland, John <Rowland.John@epa.gov>; Stewart, Leonice <Stewart.Leonice@epa.gov>; Gray, Richard <Gray.Richard@epa.gov>
Subject: Waiver Request - Bill #62990257778

Dear [REDACTED]
This email is in response to your "Request for Waiver of Debt," received by this office on June 15, 2016, in which you request approval of a waiver of a debt in the gross amount of \$2,649.60. This debt arose from overpayments of pay you received through a personnel action that temporarily promoted you from a [REDACTED]

[REDACTED] For the reasons set forth below, your request for a waiver is denied.

Background

You indicate that an administrative error of the Office of Human Resources (HR) caused your salary overpayment in 2016 when a personnel action that temporarily promoted you from a GS-13 Contract Specialist to a GS-14 Lead Contract Specialist included the incorrect Not To Exceed (NTE) date. This administrative error in your view occurred through no action on your part. You point out that the same administrative error occurred to five other

EPA employees. You also suggest that EPA has begun to deduct your salary for this overpayment.

According to you, the overpayment first came to your attention in the latter part of October 2016 when you received a call from someone in HR. You acknowledge that you were aware of the correct expiration date for your temporary promotion to a [REDACTED]. But you contend that you had no reason to recognize the salary overpayment and believe it would be unfair to require you to repay the overpayment. To support your position, you state that "EPA does not automatically issue a hard copy of pay stubs and I NEVER check mine."

Further, you stated that your race as a white male may cause EPA to treat your waiver request less favorably than those of minority and female employees.

A review of your Standard Form 50s (SF-50) reveal that effective April 3, 2016, a personnel action temporarily promoted you [REDACTED]

[REDACTED] The SF-50 for this temporary promotion initially had a not-to-exceed (NTE) date of May 14, 2016. Subsequently, a personnel action extended this temporary promotion but the SF-50 mistakenly included a new NTE date of "6-11-20."

A corrective SF-50 was later issued that listed the right NTE date of June 11, 2016. Effective June 12, 2016, you returned to your permanent position of GS-13, step 6, Contract Specialist. However, an examination of your Earnings and Leave Statements for pay periods Numbers 14 (pay period ending June 25, 2016) through pay period 21 (pay period ending October 1, 2016) show that during this time you continued to receive payments for the temporary promotion at the GS 14 Step 3 level.

Under 5 U.S.C. § 5584, I have the authority to waive collection of erroneous payments of pay or allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee.

B-240556 (Oct. 9, 1990). An employee is deemed to be at fault and waiver is precluded if an employee is aware or should have been aware that he/she was being overpaid. B-271308 (Apr. 18, 1996). In the present case, I find that although the erroneous payments were caused by an administrative error, you were not without fault because you knew or should have known that you were not entitled to overpayments that you received after your temporary promotion expired on June 11, 2016.

Analysis

In this instance, I consider fault to exist if it is determined that you knew or should have known that you were receiving more pay than you were entitled to receive during the time frame in question. Thus, if the employee is furnished with information which would cause a reasonably prudent person to be aware of or suspect the existence of error, but the

employee fails to take corrective action, the employee is not without fault. B-156482 (February 19, 1986). The waiver statute was enacted in order to relieve an employee from the obligation of reimbursing the government if the facts and circumstances of the case show that an employee could not reasonably have been aware of the error, and when collection would be against equity and good conscience and contrary to the best interests of the United States.

The totality of the circumstances in this case leads me to believe that with reasonable diligence, you did have an opportunity to detect that you had been overpaid after your temporary promotion expired on June 11, 2016.

Initially, you state that the overpayment from your temporary promotion occurred as a result of an administrative error by HR and that none of your actions attributed to this error. The record shows that the personnel action (SF-50) that extended your temporary promotion to GS-14

[REDACTED] This caused you to continue to receive payment for the temporary promotion at the GS-14, Step 3 level until the pay period ending October 1, 2016. HR explained that this administrative error occurred from a computer problem associated with how temporary promotions were processed by the Federal Personnel Payroll System. HR has taken corrective measures to prevent this administrative error from happening again in the future. The fact that the overpayments were made through an administrative error, however, does not relieve you of responsibility for determining the true state of affairs in connection with these overpayments. A person receiving money erroneously paid by a government agency acquires no right to that money and is responsible for making full restitution. B-229446 (April 7, 1988). In addition, you acknowledged that you knew when your temporary promotion expired. Once your temporary promotion expired on June 11, 2016, you should have only received your former pay at the GS-13, step 6 level.

Next you contend that you had no indication that you were receiving an overpayment. You stated that the overpayment first came to your attention in the latter part of October 2016 when you received a call from someone in HR. The record does not corroborate your view. Your Earnings and Leave Statements clearly showed that you were being overpaid. In particular, your Earnings and Leave Statements for pay periods Numbers 14 (pay period ending June 25, 2016) through pay period 21 (pay period ending October 1, 2016) expressly stated that you were receiving a salary at the GS 14 Step 3 level. You attempt to downplay this fact by stating that "EPA does not automatically issue a hard copy of pay stubs and I NEVER check mine." It is unfortunate that you never review your Earnings and Leave Statements for accuracy. Generally, where an employee has records which, if reviewed, would indicate an overpayment, and the employee fails to review such documents for accuracy or otherwise fails to take corrective action, he is not without fault, and the waiver will be denied. Employees have the

responsibility to review their Earnings and Leave Statements to verify the information for accuracy. B-14480 (May 20, 1976); B-188822 (June 1, 1977). Finally, you expressed apprehension that your status as a white male may influence EPA to treat your waiver request less favorably than those of minority and female employees presumably in similar situations. I am committed to ensuring that waiver requests of all EPA employees are reviewed in an impartial manner based on the facts of each case. It is my view that collection of this overpayment is not against equity, good conscience, nor contrary to the best interest of the United States. I have concluded that you should reasonably have been aware that you were being overpaid in 2016 after your temporary promotion expired. Furthermore, HR reported that money has not been previously collected from your salary to pay this debt.

I sincerely regret a more favorable reply cannot be made. I do realize that this overpayment and administrative delay in correcting the error has created a great inconvenience for you. Under 40 C.F.R. 13.11, I have the delegated authority to waive all or part of the interest, penalty, and administrative charges, if any, which have accrued on this debt. In this regard, I am directing the Department of Interior, Interior Business Center (IBC) to proceed with collection of the debt, but to waive any amount of your debt that may be attributable to interest, penalty, and administrative charges. If you have any questions or need further assistance, please contact John M. Rowland of this office at 202-564-5467.